

**EX PARTE**

September 11, 2003

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Portals II, TW-A325  
Washington, D.C. 20554  
September 10, 2003

**Re: Approval of SBC's 271 application and SBC Billing Issues  
WC Docket No. 03-167**

Dear Ms. Dortch:

As Chairman of the National Alternative Local Exchange Carrier Association (NALA) I represent more than twenty-five (25) CLECs engaged in providing local phone service for residential customers throughout the country. While most of our companies are small by traditional standards, we service a segment of the phone market which generally has been ignored. Many NALA member customers have been denied local phone service because of poor or non-existent credit histories, because they can not afford large deposits, or because they have not yet fulfilled ILEC residence requirements. Currently we service in excess of 500,000 residential access lines, many thousands of which are in the Michigan and Midwest.

I am writing to you to apprise the Federal Communications Commission of the continued billing problems our members encounter when dealing with Southwestern Bell Corporation (SBC). It is not an exaggeration in a telecommunications billing world fraught with inconsistencies and inaccuracies to say SBC's billing record is one of the worst. SBC may argue the number of CLECs and access lines indicates "...the local market in Michigan is irreversibly open to competition"<sup>1</sup>, but the billing problems our members continue to face proves there is more than one way to defeat competition. SBC claims the allegations concerning their billing problems are nothing more than that, "allegations" and that "...CLECs have provided virtually no concrete evidence of any systematic failure of SBC Midwest's billing system"<sup>2</sup>

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<sup>1</sup> Supplementary Reply Comments in Support of Application by SBC for Provision of in-Region, Interlata Services in Michigan dated July 21, 2003, p. 1.

<sup>2</sup> *ibid.*, p. 3.

If I may I would very much like to shed light on the continuing problems my own company, Cat Communications International, Inc dba CCI, has encountered with SBC. The problems we at CCI have had to deal with have been nothing less than overwhelming in scope.

For the purpose of brevity I have listed them below in outline format:

1. Billing claims submitted to SBC are simply denied outright for completely unrelated reasons with no documentation or supporting evidence to refute the claim or corroborate SBC's denial
2. Billing details are never presented. The CLEC is forced to spend thousands of dollars of programming time attempting to dissect the gross amounts submitted by SBC. There is no support whatsoever provided by SBC to help clarify what lies behind the billing charges. Our company employees the services of one full-time programmer who is dedicated to dissecting and analyzing the SBC billing data.
3. By "reinterpretation" or simple unilateral SBC fiat, the functionality of the SBC Operation Support Systems (OSS) is frequently and arbitrarily changed. SBC offers CLEC's end-users services not requested by the CLEC and then SBC attempts to hold the CLEC responsible. SBC argues CLECs must employ expensive blocks to prevent SBC from selling these end-user services directly to CLEC's customers. Practices such as this are reminiscent of "protection" rackets where victims are forced to pay not to be harmed.
4. SBC operators fail to access customer profiles contained in the Line Information Data Base (LIDB) which would indicate CLEC's customer is not allowed to make third party and collect calls. Despite CLEC's profiling the customer in the LIDB and despite SBC's claims their operators check the LIDB before completing a call, SBC operators do, in fact, complete long distance collect and third-party calls and then bills the CLEC for the payment.
5. Despite the designation of "none" for "pics" and "lpics" on CLEC's customer's lines, SBC operators complete long distance calls and SBC then bills the CLEC. By some arcane twist SBC interprets "none" "pics" and "lpics" to mean SBC has the right to complete the long distance call and hold the CLEC responsible. This is analogous to dial around providers (10-10-XXX) providing Verizon or SBC or Bell South customers with dial around services and then holding these ILECs financially responsible for completing those dial around calls.

An end-user today often has multiple service providers for different services...internet, wireless, long distance and local. ILECs can not hold CLECs responsible for all services passing through the local loop simply because the CLEC is the local service provider. SBC continues to provide services (e.g., operator assisted calls and long distance) directly to the CLEC's end-users without being willing to assume responsibility for controlling access to and collection for these same services. SBC wants the revenues derived from directly-provided services but not the responsibility for controlling the services or collecting payment for them. SBC prefers to pass these risks onto the local service provider. Our company, CCI, was recently forced to file a Formal Complaint against SBC's billing tactics before the Michigan PUC.

With long distance approval in sight, SBC has proved increasingly difficult with which to negotiate for interconnection agreements. For example, even though it commonly takes more than a year for SBC to address billing claims, SBC continues to insist CLECs place all disputed claim amounts into escrow accounts no matter how long SBC may take to resolve the billing dispute. Our company proposed a two (2) month limit on escrowed billing dispute money unless older claims were first resolved. SBC rejected this proposal. Paralyzing a CLEC's financial capability by tying up large sums for endless periods of time in escrow accounts is another effective way for SBC to diminish competition.

SBC also insists CLECs, no matter their size, pay large non-recurring charges (normally several thousand dollars per each switch throughout a state) to access SBC directory services even though CLECs pay for the actual usage of that directory assistance service. This means smaller CLECs trying to enter SBC markets must pay SBC large sums (typically between \$20,000 and \$40,000 per state) before the CLEC even begins to compete in that market. This too inevitably diminishes competition.

The Department of Justice found in its recent report of August 26, 2003, "...that issues remain concerning the billing processes that are common to Michigan and the four states that are the subject of the current application...."<sup>3</sup> The same report noted "...persistent questions remain concerning billing accuracy."<sup>4</sup> Our members experience continual problems dealing with SBC and our company's experience suggests these problems have not diminished but have, in fact, become more severe.

Billing problems relating to ILECs selling CLEC's end-user services directly are not found everywhere. For example, our company spends little time with billing problems in Bell South areas. Bell South's Operating Support System allows for free blocking of directory assistance and operator assisted calling services. Why should other ILECs like SBC not also provide these same free blocking devices when the goal of the block is to prevent unauthorized access to SBC-provided end-user services? If SBC wishes to sell services directly to CLEC's end-users then SBC, not the CLEC, should be held responsible for the control of and collection for those services.

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<sup>3</sup> Evaluation of the United States Department of Justice re: WC Docket No. 03-167 dated August 26, 2003, p. 2.

<sup>4</sup> *ibid.*, p. 8.

We ask the Commission to weigh the above comments as it considers SBC's application for interlata service approval. If SBC is allowed to charge CLECs for services SBC itself has provided directly to end-users, and if SBC is allowed to continue to use inaccurate and misguided billing claims to threaten its competitors, residential service within Michigan will continue to be more expensive than it needs to be and certainly more restricted.

Sincerely,

Norman D. Mason  
National ALEC Association, Chairman  
CCI, Inc., President & CEO

Tel: 540-444-2118  
e-mail: [nmason@ccitelecom.com](mailto:nmason@ccitelecom.com)  
Fax: 540-444-2162

Cc: Pamela Arluk, FCC, Wireline Competition Bureau  
Cc: Layla Seirafi-Najar, U.S. Department of Justice  
Telecommunications & Media Enforcement